

DEPARTMENT OF STATE REVENUE

Information Bulletin #98
Income Tax
October 2018
(Replaces Bulletin #98 dated November 2016)
Effective Date: January 1, 2018 (Retroactive)

SUBJECT: Indiana CollegeChoice 529 Education Savings Plan

REFERENCE: [IC 6-3-3-12](#); [IC 21-9](#); IRC Sec. 529

DISCLAIMER: Information bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on either the department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUMMARY OF CHANGES

Apart from technical, nonsubstantive changes, this version of the bulletin is changed to reflect that contributions intended for K-12 tuition are eligible for the tax credit. This version also provides that, for contributions intended for K-12, the credit is ten percent of the contributions up to a maximum credit of \$500 for 2018, and twenty percent of the contributions up to a maximum credit of \$1,000 for 2019 and later. In addition, the total credit for college and K-12 is subject to an overall \$1,000 annual per taxpayer cap. Finally, this version also specifies that a withdrawal for K-12 expenses must be used for in-state K-12 tuition.

I. INTRODUCTION

[IC 6-3-3-12](#) provides a tax credit for contributions to the Indiana CollegeChoice 529 Education Savings Plan. The credit applies to contributions made for taxable years beginning after Dec. 31, 2006.

HEA 1316-2018(ss) expanded the credit to allow contributions to the Indiana CollegeChoice 529 Education Savings Plan and intended for K-12 tuition to qualify for the tax credit and to be considered qualified withdrawals for credit recapture purposes, provided that the K-12 tuition is paid to an in-state school.

II. DEFINITIONS

A CollegeChoice 529 Education Savings Plan is a reference to Sec. 529 of the Internal Revenue Code (IRC). An IRC Sec. 529 plan is a program under which a person may make cash contributions to an account on behalf of a beneficiary for payment of qualified higher education expenses. The program must be established and maintained by a state or a state agency. Qualified higher education expenses include tuition, fees, books, supplies, and equipment required by the post-secondary educational institution for enrollment or attendance. Reasonable room and board expenses for post-secondary education are included if the beneficiary is enrolled at least half-time.

In addition, effective January 1, 2018, primary or secondary school (K-12) tuition paid for enrollment or attendance at a public, private, or religious school are considered "qualified higher education expenses" under IRC Sec. 529. However, no more than \$10,000 in K-12 tuition per beneficiary per taxable year will be considered qualified higher education expenses. This limit applies to all distributions from all accounts for that beneficiary and is not on a per-account basis. Further, for Indiana purposes, any withdrawal for K-12 tuition must be used for tuition at an in-state school to be considered a qualified withdrawal.

"Contribution" means the amount of money directly provided to a CollegeChoice 529 education savings plan account by a taxpayer. A contribution does not include the following:

- Money credited to an account as a result of bonus points or other forms of consideration earned by the taxpayer that result in a transfer of money to the account;
- Money transferred from any other qualified tuition program under Sec. 529 of the IRC or from any other similar plan; or
- Money the account beneficiary receives as a refund of qualified expenses from an eligible educational institution and that is recontributed to the plan for the same account beneficiary within 60 days of the date of the refund.

Effective January 1, 2019, a contribution to a CollegeChoice 529 education savings plan account intended to be

used to pay for K-12 tuition must be designated as such. Such designation must be made in the manner prescribed by the CollegeChoice 529 Education Savings Plan administrator.

"Qualified withdrawal" means a withdrawal or distribution from an account of the Indiana CollegeChoice 529 Education Savings Plan that is made to pay for qualified higher education expenses, excluding any withdrawals or distributions for qualified higher education expenses if the withdrawal or distribution is made from an account that is terminated within 12 months after the account is opened.

Qualified withdrawals also include withdrawals made:

- Because of the death or disability of an account beneficiary;
- Because an account beneficiary received a scholarship that paid all or part of the qualified higher education expenses of the account beneficiary; or
- Because of a transfer of funds by the plan from one third-party custodian to another.

"Nonqualified withdrawal" means a withdrawal or distribution from an Indiana CollegeChoice 529 Savings Plan that is not a qualified withdrawal.

A qualified withdrawal does not include a rollover distribution or transfer from the Indiana CollegeChoice 529 Education Savings Plan to any other IRC Sec. 529 plan or similar plan. In addition, a qualified withdrawal does not include a distribution or transfer from the Indiana CollegeChoice 529 Education Savings Plan to an Achieving a Better Life Experience (ABLE) account. Further, a qualified withdrawal does not include amounts used to pay for tuition used to pay for tuition *[sic]* at an out-of-state K-12 school.

III. TAX CREDIT AVAILABILITY

The tax credit is available only to taxpayers who made a contribution to an account in the Indiana CollegeChoice 529 Education Savings Plans postmarked or received by a delivery service by December 31 of the year for which the contribution is made. An electronic funds transfer initiated on or by December 31 is eligible for the credit for the year the transaction was made. The contributor does not have to be the owner of the account to be eligible to claim the credit. Contributions to accounts established through private colleges or universities are not eligible for the credit; however, funds in the Indiana CollegeChoice 529 Education Savings Plan can be used by the account beneficiary to pay qualified higher education expenses for attendance at a private college or university.

The tax credit is available to an individual filing a single return or a married couple filing a joint return. The tax credit is not available to married individuals filing separate returns. The taxpayer is entitled to a credit against the state adjusted gross income tax liability for a taxable year. The credit cannot be used to offset any county tax liability. For 2018, the amount of the credit is the lesser of the following:

- 10% of the amount of all contributions made for K-12 tuition (up to a maximum credit of \$500) plus 20% of the amount of all contributions for post-secondary education the taxpayer makes to an account(s) of the Indiana CollegeChoice 529 Education Savings Plan during the taxable year;
- the amount of the taxpayer's adjusted gross income tax liability for the taxable year reduced by the amount of credits allowed under [IC 6-3-1](#) through [IC 6-3-7](#); or
- \$1,000.

Example: A taxpayer establishes an account for his child. The taxpayer contributes \$4,000 to the plan during the taxable year for K-12. The taxpayer would be eligible for a tax credit of \$400. The child's grandmother makes a \$10,000 contribution to the same account during the same taxable year, also for K-12. The grandmother would be eligible to claim a tax credit of \$500 (maximum allowed for K-12).

If the taxpayer's contribution had been \$6,000 for K-12 and \$4,000 for college expenses, the taxpayer would have been eligible for a \$500 credit for K-12 (the maximum for K-12) and an \$800 credit for the college expense portion, for a total of \$1,300. However, this is subject to the \$1,000 aggregate cap, so the maximum allowable credit is \$1,000.

For 2019 and later, the amount of the credit is the lesser of the following:

- 20% of the amount of all contributions the taxpayer makes to an account(s) of the Indiana CollegeChoice 529 Education Savings Plan during the taxable year, including those designated for K-12 tuition;
- the amount of the taxpayer's adjusted gross income tax liability for the taxable year reduced by the amount of credits allowed under [IC 6-3-1](#) through [IC 6-3-7](#); or

- \$1,000.

Any taxpayer who makes a contribution to an Indiana CollegeChoice 529 Education Savings Plan is eligible for the tax credit even if the taxpayer is not the owner of the account.

Example: A taxpayer establishes an account for his child. The taxpayer contributes \$4,000 to the plan during the taxable year for college expenses. The taxpayer would be eligible for a tax credit of \$800. The child's grandmother makes a \$15,000 contribution to the same account during the same taxable year for college expenses. The grandmother would be eligible to claim a tax credit of \$1,000 (maximum allowed).

A taxpayer qualifying for the credit is not entitled to a carryback, carryforward, or refund of any unused credit. The tax credit may not be sold, assigned, or transferred by the taxpayer eligible to claim the credit.

A taxpayer shall claim the credit on the taxpayer's annual state income tax return. The taxpayer, upon request of the department, shall submit proof of the amount of the contributions made to the trust account during the taxable year. The requested proof may be submitted by providing a copy of the trust account statement for the year in which the credit is claimed.

Example: A taxpayer's Indiana tax liability for 2018 is \$1,000. The taxpayer has made prior tax payments in 2018 to the department via withholding or estimated payments of \$1,300. The taxpayer has contributed \$400 to Indiana colleges in 2018 and is eligible to claim a \$200 college credit. The taxpayer made a \$5,000 contribution to an account of the Indiana CollegeChoice 529 Education Savings Plan for college expenses in 2018, so the taxpayer is entitled to a \$1,000 529 Plan Credit. On the taxpayer's 2018 adjusted gross income tax return, the \$200 College Credit is applied to reduce the taxpayer's tax liability from \$1,000 to \$800. Then, \$800 of the 529 Plan Credit is applied against the \$800 balance of the taxpayer's tax liability to reduce this tax liability to \$0. The remaining \$200 of the 529 Plan Credit is not usable. Because the combination of the College Credit and 529 Plan Credit has reduced the taxpayer's liability to \$0, the taxpayer has overpaid the taxpayer's 2018 taxes by \$1,300 and is entitled to a \$1,300 refund. The taxpayer is not entitled to any refund, carryback, or carryforward of the \$200 unused 529 Plan Credit.

IV. TAX CREDIT RECAPTURE

An account owner of an Indiana CollegeChoice 529 Education Savings Plan who makes a nonqualified withdrawal in a taxable year must repay all or part of the tax credit in the year in which the nonqualified withdrawal is made from the account. The amount to be repaid is equal to the lesser of:

- 20% of the total amount of nonqualified withdrawals made during the taxable year from the account; or
- The excess of the cumulative amount of all credits that are claimed by any taxpayer with respect to the taxpayer's contributions made to the account for all taxable years beginning on or after Jan. 1, 2007, minus the cumulative amount of tax credits repaid by the account owner for all prior taxable years beginning on or after Jan. 1, 2008.

The required repayment shall be reported by the account owner on the account owner's annual income tax return for the taxable year in which the nonqualified withdrawal is made. The account owner must include Schedule IN-529R with the return if reporting a repayment.

If an account owner is not otherwise required to file an annual income tax return for a taxable year in which a nonqualified withdrawal is made and the account owner does not make the required repayment, the department shall issue a demand notice in accordance with [IC 6-8.1-8-2](#).

Indiana's CollegeChoice 529 Education Savings Plan is administered through the Indiana Education Savings Authority. More information can be obtained from their website at www.in.gov/tos/iesa/.

Adam J. Krupp
Commissioner

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An [html](#) version of this document.